

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

**RUSSELL GLENN NEUSE,**

**Plaintiff,**

**v.**

**CHAMPION MORTGAGE COMPANY,**

**Defendant.**

§  
§  
§  
§  
§  
§  
§  
§  
§

**Civil Action No.**

**NOTICE OF REMOVAL**

Defendant Champion Mortgage Company (“Champion” or “Defendant”) files this Notice of Removal of this action from the 370<sup>th</sup> Judicial District Court, Hidalgo County, Texas. Defendant submits this Notice in support of removal. Removal is based on federal question jurisdiction pursuant to 28 U.S.C. Section 1331. Defendant respectfully shows as follows:

**I. INTRODUCTION**

1. On or about November 30, 2022, Russell Glenn Neuse (“Plaintiff”) filed *Plaintiff’s Original Petition* (the “Petition”) bearing Cause No. C-4597-22-G, in the 370<sup>th</sup> Judicial District Court, Hidalgo County, Texas, styled *Russell Glenn Neuse v. Champion Mortgage Company* (the “State Court Action”). A true and correct copy of the Docket Sheet from the State Court Action is attached hereto as **Exhibit A**. In accordance with 28 U.S.C. Section 1446(a), copies of all process, pleadings, and orders served in the State Court Action are attached hereto within the contents of **Exhibit B**.

2. The allegations in the Petition relate to a deed of trust and foreclosure proceedings on Plaintiff’s real property and improvements located at 2115 Ichabod Lane, Edinburg, Texas 78539, and more particularly described as:

LOTS FIFTY-NINE (59) AND SIXTY (60), SLEEPY HOLLOW, AN ADDITION TO THE CITY OF EDINGBURG, HIDALGO COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 20, PAGE 158, MAP RECORDS, HIDALGO COUNTY, TEXAS, REFERENCE TO WHICH IS HERE MADE FOR ALL PURPOSES.

(the “Property”). (*See generally, Petition.*) In the Petition, Plaintiff alleges Defendant’s scheduled execution of a Writ of Possession on the Property is unlawful because Defendant allegedly violated Plaintiff’s Chapter 13 Bankruptcy Automatic Stay Protection. (*See Petition* ¶ 5.) Plaintiff seeks injunctive relief to prevent Champion from evicting the Plaintiff and possessing the Property. (*See Petition at* ¶¶ 8-9.)

3. On November 30, 2022, the State Court granted Plaintiff’s request for a Temporary Restraining Order. (See Exhibits B, B-6.)

4. This Notice of Removal is timely because thirty (30) days have not expired since the State Court Action was filed, making removal proper in accordance with 28 U.S.C. Section 1446(b).

5. This action is removable to federal court pursuant to 28 U.S.C. Section 1441 because it could have been filed originally in this Court pursuant to federal question jurisdiction under 28 U.S.C. Section 1331.

#### **BASIS FOR REMOVAL – FEDERAL QUESTION**

5. This action arises under and presents substantial questions of federal law. Federal jurisdiction exists “when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.” *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987).

6. Plaintiff on the face of his Petition requests an injunction because Defendant has allegedly violated Plaintiff’s Chapter 13 Bankruptcy Automatic Stay Provision. (*See Petition* ¶ 5.) An alleged violation of an Automatic Stay Provision in a Chapter 13 Bankruptcy Case is based

on federal law. *See Fornesa v. Fifth Third Bank & Fifth Third Mortg. Co.*, No. 4:17-cv-2728, 2017 U.S. Dist. LEXIS 231718, at \*4-6 (S.D. Tex. 2017).

7. Because this action arises under the laws of the United States, this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. Section 1331, and removal of this entire cause is therefore proper under 28 U.S.C. Section 1441(c). The Court has supplemental jurisdiction over Plaintiff's state law claims. 28 U.S.C. § 1367.

### **VENUE**

6. Venue for removal is proper in this district and division, the United States District Court for the Southern District of Texas, McAllen Division, under 28 U.S.C. Section 1441(a) because this district and division embrace the 370<sup>th</sup> Judicial District Court, Hidalgo County, Texas, the forum in which the removed action was pending.

### **NOTICE**

7. Pursuant to 28 U.S.C. Section 1446(d), a copy of this Notice is being filed with the Clerk of Court for the 370<sup>th</sup> Judicial District Court, Hidalgo County, Texas.

8. The contents of Exhibit B constitute the entire file of the State Court Action.

### **CONCLUSION**

For the reasons described above, Defendant respectfully requests this Court take jurisdiction over this matter and proceed as if it had been originally filed herein.

Respectfully submitted,

By: /s/ Mark D. Cronenwett

**MARK D. CRONENWETT**

Attorney in Charge

Texas Bar No. 00787303

Southern Bar No. 21340

[mcronenwett@mwzmlaw.com](mailto:mcronenwett@mwzmlaw.com)

**MACKIE WOLF ZIENTZ & MANN, PC**

14160 N. Dallas Parkway, Suite 900

Dallas, Texas 75254

214-635-2650

214-635-2686 (Fax)

**ATTORNEYS FOR DEFENDANT**

**CHAMPION MORTGAGE COMPANY**

**LIST OF ALL KNOWN COUNSEL OF RECORD**

For Plaintiff:

Russell Glenn Neuse  
2115 Ichabod Lane  
Edinburg, Texas 78539  
neusetexas1@gmail.com  
*Pro Se Plaintiff*

For Defendant Champion Mortgage Company:

Mark D. Cronenwett  
Texas Bar No. 00787303  
[mcronenwett@mwzmlaw.com](mailto:mcronenwett@mwzmlaw.com)  
Mackie Wolf Zientz & Mann, P.C.  
14160 North Dallas Parkway, Suite 900  
Dallas, Texas 75254  
Telephone: 214-635-2650  
Facsimile: 214-635-2686

**INDEX OF DOCUMENTS ATTACHED**

- Exhibit A      Copy of the Docket Sheet for Cause No. C-4597-22-G in the 370<sup>th</sup> Judicial District Court, of Hidalgo County, Texas;
- Exhibit B      Filings in Cause No. C-4597-22-G in the 370<sup>th</sup> Judicial District Court, of Hidalgo County, Texas;
- B-1      Plaintiff's Original Petition, filed November 30, 2022;
- B-2      Plaintiff's Motion for Ex Parte Temporary Restraining Order and Request for Hearing, filed November 30, 2022;
- B-3      Sworn Affidavit of Petitioner in Support of Application for Ex Parte Temporary Restraining Order, filed November 30, 2022
- B-4      Citation issued to Champion Mortgage Company, filed November 30, 2022; and
- B-5      Ex Parte Temporary Restraining Order and Order Setting Hearing, November 30, 2022.

**CERTIFICATE OF SERVICE**

The undersigned certifies that on December 1, 2022, a true and correct copy of the foregoing document was delivered via regular U.S. mail and email to the parties listed below.

Russell Glenn Neuse  
2115 Ichabod Lane  
Edinburg, Texas 78539  
neusetexas1@gmail.com  
*Pro Se Plaintiff*

/s/ Mark D. Cronenwett  
**MARK D. CRONENWETT**